

Township Of Chatham      Zoning Board of Adjustment  
Regular Meeting                      June 18, 2015

Mr. Vivona called the Meeting to Order at 7:30 P.M with the reading of the Open Public Meetings Act.

## Roll call:

Mr. Vivona  
Mr. Williams  
Mr. Hyland, Alt. 2

Mr. Borsinger  
Mrs. Romano

Mr. Weston  
Mr. Styple

Absent: Mrs. Kenny

## Professionals Present:

Steven Shaw, Attorney  
John Ruschke, Engineer  
Robert Michaels, Planner

### Resolutions:

Contract for Dr. Eisenstein and Mr. Dotty for Telecommunications

A motion was made/seconded to approve the Contract of Mr. Eisenstein – all in favor

A motion was made/seconded to approve the Contract of Mr. Dotty – all in favor

## Minutes: June 10, 2015 transcript

A motion was made by Mr. Williams, seconded by Mr. Borsinger to approve the June 15, 2015 transcript as submitted. All in favor

### Memorialization:

**Susan Drive Inc.,**  
35 Susan Drive  
Block: 20 Lot: 17.

Calendar BOA 14-20-17

Mr. Shaw noted that the Resolution was submitted to all Board Members for review. If there are any comments now would be the time to express them otherwise it would be appropriate to consider a Resolution to approve as distributed.

Mr. Vivona asked if we made a note in it about the adjoining properties.

Mr. Shaw said the applicants agreed to the provision where they agree to grant/ appropriate 10 ft. right easement to incorporate a retaining wall for the adjoining property.

A motion was made/seconded to accept the Resolution as submitted.

Roll Call: Mr. Hyland, Mr. Borsinger, Mr. Styple, Mrs. Romano, Mr. Weston, Mr. Vivona - all in favor

**Cingular Wireless  
Shunpike Road****BOA 15-84-3**

Mr. Shaw said this Resolution was distributed. He pointed out two typographical errors. With those corrected He said a motion could be made to adopt the Resolution as distributed/amended.

A motion was made by Mr. Weston to accept the Resolution as amended. Seconded by Mr. Borsinger.

Roll Call: Mr. Hyland, Mr. Borsinger, Mr. Styple, Mr. Weston, Mr. Vivona - all in favor

**Hearings:**

**Jeff Morgan**  
58 Lisa Drive  
Block: 35 Lot: 15

**Calendar BOA 15-35-15**

Mr. Morgan (sworn in) said the purpose of this project is to construct a backyard lawn renovation/grading and the project will include tree removal.

Mr. Vivona asked if the applicant was digging out or building up.

Mr. Morgan said part of the area will be dug out a little towards the back of the property.

Mr. Vivona asked if there would be grass.

Mr. Morgan said that because of steep slopes the driveway causes a problem. He would be disturbing 805 sf to get down to the area that we want to level.

Mr. Vivona asked if that was just for access.

Mr. Morgan said yes it would be for access but it's a steep slope we will be working in.

Mrs. Romano asked if other retaining walls had been added by other neighbors so that they might have play area.

Mr. Morgan said he had not seen the various back yards.

Mr. Vivona said they would schedule the site visit for July 11<sup>th</sup> at 9 a.m. and advised of measures that needed to be done to perform the site review.

Mr. Shaw advised any person present for this application that it would be carried to the next regularly scheduled meeting without further notice.

**Mariam Vaziri**  
43 Susan Drive  
Block: 20 Lot: 15.

**Calendar BOA 15-20-15**

Mr. **Quinn, Esq.** said the applicant wished to construct a single family dwelling. Variances are being requested for front yard, height of principal structure, steep slopes, and retaining walls.

Mr. Moschello, P.E. sworn, referred to A19 Color Rendering of Site, sheet 2 of 3. Sediment Control and Utility Plan dated 3/18/2015 and testified to what was outlined on the plan. Height of slopes ranged from white (0-15%) light green (15-20%) 25% was shown in darker green which gives an idea of the area. The lot area is under 22000 sf. The dark green represents 15000 sf of the property which in steep slopes. The applicant is proposing a single family home on the property which is approximately 2600 sf footprint. The building itself is approximately 4500 sf (all levels of house we propose a retaining wall which is a function of the grade on the property given the slopes. There are a series of drywells in the back of the property for runoff. There is a drainage pipe that runs alongside the lower portion of the property.

Re Variances requested: Slope disturbance: (ordinance 500 sf of disturbance where we are proposing 5,517 sf) Front yard setback variance: (zone requires 50 ft. setback but a number of years ago when these lots were subdivided they were allowed a 28 ft. setback.) So we are requesting 25.1 ft. setback; Building Height: (35 ft. is permitted 45.01 is being requested)

Retaining Walls (6 ft. is maximum allowed we are requesting 23.25 at the highest Setback for principal structure to a structural retaining wall: (ordinance requires 20 ft. separation distance between structures and we are requesting 5-15 around the building) Setback distance from the bulk ground structure – down in back of the building: (ordinance requires 15 ft. we are proposing 7-14 ft.) Setback distance from property line to structural retaining wall: (at the closest point we are 11 ft. where 19 ft. is required) Proposed change in existing grade which raises a portion of the lot 15 ft. from the property line, the elevation being four feet. The ordinance requires that the grading around the structure be sloped for a minimum of 10 ft. away from the structure before it changes direction. In this case we are only sloping the driveway 2 ft. before it meets a French drain and then slopes so we are requesting a variance for this as well.

Mr. Vivona asked why a 25 ft. retaining wall was necessary when no other houses on that slope had that.

Mr. Mochello said on this particular lot what is in place here has a patio associated with it. The patio instead of being a straight walk out is associated with the lower level.

Mr. Vivona questioned the height as it is over ten feet.

Mr. Mochello said in this case the ordinance requires 15 ft. around the structure and we do have a kitchen in the back end of the building which puts you out into the wooded area which is almost 15-16 ft. below the level of the house due to the slope of the property. It's the steepness of the lot that is causing this variance. In the front of the street it will appear to be 30 ft. but from the rear of the property, due to the slope it appears/is higher. From the front elevation of the house looks to be more typical. It looks similar to a home that you see on Cedar Drive.

Discussed various houses in the neighborhood.

Mr. Vivona asked why the front yard setback was needed. 28 is really close.

Mr. Moschello we had 25 on another project and we are trying to minimize the disturbance in the rear slope area so we thought the additional three feet in the front which is less steep.

Mr. Shaw noted that there is not a standard of 28 ft. setback established in a prior hearing. What happened is that there is a natural shelf which is buildable on that property and my relocation is that the natural shelf is setback approximately 28 ft. from the street. The reasons for the others having used that number was because of that. Certainly you could argue that you wanted to move it further to protect the steep slopes in the rear.

Mr. Moschello said right now there is fifteen feet from the house to the retaining wall.

Mr. Vivona asked if another option is if you trying to keep the house near street level so if it was a little lower and the driveway pitched a little bit further.

Mr. Moschello said they could look at some calculations say possibly moving the garages a foot or two and slope the driveway. We could try to work those numbers.

Mr. Vivona asked them to do that. He asked if Mr. Ruschke had approved all the drainage calculations.

Mr. Moschello said there was a comment regarding a gutter roof leader drain.

Mr. Shaw asked if calculations would be submitted to demonstrate that it doesn't qualify as three stories.

Mr. Moschello said that comment number three will address this. If not then we would request the variance.

Mr. Vivona asked if they had procured access to the rear of the property.

Mr. Moschello said we have been assured permission to use that path.

Mr. Vivona asked if they would have the removable trees marked for the site visit.

Mr. Moschello said they could mark the trees as shown on the plans. We will also stake the proposed home. He asked if any stakes should be put out by the dry wells.

Mr. Vivona said they could put one there. We will probably not walk down there but it would give us some prospective until it's repaired. We have had many problems on this and we have a list of requirements that will need to be followed. Next month we will go over more of that in detail. I would also like to see some type of rendering of what the rear of the house and the retaining walls showing what it will look like.

Mr. Vivona asked if there were any other questions.

Mr. Borsinger asked if you were aware that we put a resolution with easement provision.

Mr. Vivona opened the meeting to the public for questions regarding Mr. Moschello's testimony.

Mr. Shaw said Mr. Moschello would be back for the next meeting but if you have any questions as to his testimony tonight it would be appropriate to ask.

Mr. Hefe, 115 Ormont Road. You said the drywell right now is connected to the storm sewer. I have gone to hearings for the last thirty years about building these houses. He said none of the houses are connected to a storm sewer unless we, the householder, clears it as it will get clogged up and overruns itself. Did you get permission for what you are proposing?

Mr. Marchello said we will certainly ask.

Mr. said they had problems with the houses up there and the water.

Mr. Vivona – the whole system is not draining into the sewer system. It is draining to drywells with an overflow.

Mr. Moschello thought they would need township approval.

Mr. Vivona asked if there were any other questions from the public. None Heard. A site visit was set up for the 11<sup>th</sup> at 9:30.

Mr. Shaw noted that the application would be carried to the next regular meeting without further notice.

**Mr. & Mrs. Velazquez**  
151 Meyersville Road  
Block 15

**Calendar BOA 15-35-5.02**

Mrs. Velazques, Sworn  
Mr. Velazques, Sworn

Mrs. Velazquez said they had a small ranch on Meyersville Road and want to add a second floor to the house. We are going straight up.

Mr. T. Pizak., Architect (sworn) referred to A7, A8 & A9 dated 6/18/15 which shows the two bedroom 1 bath ranch. The zone requires a 50 ft. setback and the house is currently 33.5 ft. The applicant proposes to construct a second floor over the main portion of the house which would provide additional bedroom and bathroom; allow a dining room and a family room on the first floor. A small area will be 2 ft. cantilevered toward the front of the house allowing for a bit more space. Adding to the rear would cause a lot of land disturbance which was not their intent. We are planning of a more colonial look.

Pictures were passed around for comparison purposes as to what is being proposed and how it would fit into the existing neighborhood

Mr. Vivona asked if there were any questions from the Board/Public. None Heard

Mr. Vivona then scheduled a site visit for July 11<sup>th</sup> at 10 a.m.

Mr. Shaw said this matter will be carried to the July 23<sup>rd</sup> meeting without any further notice.

**Mr. & Mrs. McEnroe****Calendar BOA 15-105-8**

40 School Ave.

Block: 105 Lot: 8.

Front and rear yard setback variances, to build an addition

Mrs. McEnroe (sworn) said she had grown up in the Township and was fortunate to be able to move back to School Avenue. She apologized that her husband was not here tonight but had other professional obligations. After moving into the three bedroom ranch we are finding that we have outgrown it.

Mr. Klesse, licensed architect, gave an outline of what is proposed. We have created a two story building and are trying to scale down to the neighborhood. The drive is down on the side and we kind of destroy the back yard (even though it's the side yard) and are proposing to come into the new garage. The rear yard setback line is a back in the corner of the lot. The front porch is actually helpful to the site as it will be open. There will be three bedrooms. The new garage with a mudroom will enter into a kitchen. He addressed the proposed elevations of the building. The building coverage is allowable as we are at 2,773 sf. The lot coverage is allowable at 7878 and 4560 so we are still 3,300 sf. of available lot coverage.

Mr. Vivona pointed out that there were two driveways.

Mr. Klesse, said only the one on the left will be left

Mr. Vivona verified that this would decrease the impervious coverage.

Driveway(s) use/locations were discussed. Even if garage is moved forward there would still have a pre-existing non-conformance on the regular foundation. This would result in a rear yard setback of 40 sf. as It's triangular.

Mr. Klesse said the side yard setbacks conform.

Mr. Vivona asked if the porch was going to be on a foundation. He was advised it would be on piers.

Mr. Vivona asked if there were any questions from the Board/Public - None Heard. The site visit will by July 11 – 10:30.

Application will carry to next meeting with no further notice.

**Mrs. Katye Stanzak****Calendar BOA 14-14-102.03-3**

6 Country Club Drive

Block: 102.03 Lot: 3

Mr. Vivona recused – Mr. Weston will take Chair

Mr. Weston recalled that the Board had asked for more detail as to what constituted the Hardship Variance./Special Reason Variance.

**Mr. James Watson**, Planner (sworn) gave his qualifications.

This application is about an expansion of the existing dwelling. The variance is for Building Coverage of 83 ft. permitted. This not something that will be carried throughout the neighborhood. It is an undersized lot with pre-existing variances. He believed that they do comply under Section C. We are asking for building coverage and we do meet the total maximum coverage by approximately and are under that by 860 sf. If they proposed a patio 30 x 30. This application has an addition in the middle of the rear of the house. No change to anything on the side/front. The house will appear basically the same. There is no change to the impervious coverage. Retention requirements don't have to be addressed because we are not changing any impervious coverage. Finally we comply under "encourage coordination of various public" etc. As I have said this is a kitchen expansion. It makes no sense to deny the application as they would probably have to relocate and then there would be someone else coming into the house who will probably be back here for some sort of expansion. There are no negatives associated with the proposed expansion. There are three positives. Understand that this will not be seen. The positives substantially outweigh the detriments.

Mr. Williams asked if any other placement could be found.

Mr. Watson said that no matter where we expand it we still will have the same problem. The most logical place to do it is in the back of the building. You only have to push out a wall to get what is needed.

Mr. Shaw explained that what they are requesting is basically a C2 variance which is special reasons as opposed to hardship. Each variance is weighed on its own and this does not necessarily establish a precedent. What you have to do you have to weigh whether you believe the testimony you heard constitutes a basis for granting variance release. That is kind of the focus is. Clearly the Board has been concerned with other applications which have come very close to expanding. The key is that they have to establish special reasons and you have to agree that these reasons are valid.

Mr. Hyland, how is the maximum principal structure in residential districts calculated? Is percentage of square feet or minimum requirement?

Mr. Watson said each zone you get a certain amount of footage.

Mr. Hyland asked if it was calculated off the 20,000 sf. required or off the 19,592 existing.

Mr. Watson said it would be the 19,592.

Mr. Hyland said he was trying to figure out – 2575 divided by 20,000 gave me a nice round number. If you have a minimum lot area that conforms how many square feet would you still be over?

Mr. Watson – trying to do that in his head I would guess about 8.5 – the variance instead of 2 percent would be 1.5. You are really getting close to a minor number.

Mr. Hyland thought they might see it as a too big house for a too small lot.

Mr. Watson said the way he would explain this application is to tell you to look at the lot. Stand in the Street, stand on the neighboring property. It will look just about the same.

Mr. Hyland noted that one of the questions asked in a previous meeting was why you didn't mix the kitchen into mud room.

Mr. Watson said the downside to have a kitchen with an entry directly from the outside leads to temperature changes. With the door opening and closing when you are eating in the kitchen makes it harder to have it function the way you want.

Mr. Weston - the question I had in this case no one sees it and it's not a problem. If some one sees it then it's a problem. If there were neighbors who could see it would it still be a problem. Basically I'm trying to reconcile that this is something you want but the zoning regulations don't permit. That is where I'm stuck.

Mr. Watson said when you do this expansion this area is covered with a patio. Everything that happens in that house would be exactly the same except they would have a small kitchen. Allowing a small expansion of 80 sf is minor. Where they are putting this addition is covering a patio. They are putting 80 sf. of a building room. There is no additional runoff. He noted that they meet all the coverage except for the building coverage. The reason for this is storm water runoff.

Mr. Borsinger was worried about the next person coming before this board.

Mr. Locksen said you have to base this case on what is. There is no detriment.

Mr. Shaw – just to put this into prospective - what the applicant is seeking is a C2 variance. Lots of times we have the hardship variance which is determined by the size of the lot. In order to justify a C2 variance is what you are doing – special reasons and the application is furthering the Land Use Law. Then there is testimony from the applicant/planner. There is also an evaluation of negative criteria. Essentially it is the Board Members responsibility to weight the testimony given, decide whether the testimony promotes those purposes. If you feel that it does not then you are basically concluded that the applicant has not met the burden of proof. Basically it is up to the Board Members to decide whether you concur with the testimony given by the planner.

Mr. Weston asked if there were any questions/comments from the Board/Public. None Heard.

Mr. Weston asked if anyone wanted to make a motion.

Mr. Hyland made a motion to approve the variance. Ms. Romano seconded.

Mr. Hyland, Mr. Styple, Ms. Roman, Mr. Williams, Mr. Weston, In Favor  
Mr. Borsinger - Against

Applicant advised that a resolution will be prepared for the next regular meeting.

**Golden River Homes, LLC**

11 Sunset Drive

Block      Lot

**Calendar BOA 14-61-16**

Mr. DeAngelis, Attorney

Mr. Gentile, Applicant

Mr. T. Murphy, Engineer/Planner

**Steep Slope Variance**

Mr. DeAngelis said the architect and the applicant testified at the last meeting. Mr. Murphy will testify tonight as the Engineer/Professional Planner.

Mr. Murphy, having been sworn, said he was familiar with this project and had done the engineering work. He referred to (A14 sheet 2 of three dated May 31, 2014) which shows the wooded lot, slopes, etc. He said he had also made a colored rendering of the lot (A27 dated June 18, 2015). Basically anything from the front yard setback to the back is steep slopes. That is the building area of the property and Variances are required for these conditions. The applicant proposes to build a house on this property. There is a driveway coming in off Sunset Drive, slopes down to a garage under the house. Drywells are near the rear of the property. Soil and Perk tests have been done showing their functions and have been submitted to the Township Engineer. Originally the house was higher but has been lowered to 38.5 ft. Re. drainage – the roof area, driveways are directed to the area in the back into drywells.

The variances requested are: Maximum height of principal structure (38.5 ft) –C variance; Minimum setback from the principal structure and retaining wall; Retaining wall: 15 ft. required; Three steep slopes 0-5 = 2008 ft. proposed; 10-20 = 3500 sf. proposed; maximum disturbance of slopes 20-25 = 1910 sf.; The wall for the driveway and on the other side is another wall require variances. All of the variances are driven by the topography. If this plan was on a normal lot there probably would be no variance requirements.

Re: Height variance –ridge heights were done on either side of the proposed construction. The lot to the left is measured to be 26.5 to the ridge, to the ground is 27.5. The other lot measures 26.27 to the ridge and from the ridge to the ground it is 27.9. The subject property measures 27.25 and rear to the ground is 29.25. Looking at the house from the road the height would not be noticeable. There would be no noticeable difference in the height – maybe a foot or so.

Mr. DeAngelis asked Mr. Murphy if he had submitted a perk test.

Mr. Murphy said he had.

Mr. DeAngelis asked if Mr. Murphy had reviewed this application from a planning prospective. Mr. Murphy said he had.

Mr. DeAngelis then asked if Mr. Murphy had surveyed the surrounding properties in that area.

Mr. Murphy said he had.

Mr. DeAngelis asked Mr. Murphy his conclusion as to the nature of the surrounding area.

Mr. Murphy said it was all residential. The entire surrounding area is single family residences; there is no multi-family in the area.

Mr. DeAngelis asked if the subject lot is comparable with the majority of the other lots.

Mr. Murphy thought they were. He briefly described the surrounding lots.

Mr. DeAngelis asked if Mr. Murphy, in his professional opinion, thought that this board could grant the requested variances.

Mr. Murphy thought they could.

Mr. De Angelis asked Mr. Murphy if the board granted the variances did he think there would be any negative impact on the surrounding properties.

Mr. Murphy said it would be a newer house which will fit into the neighborhood.

Mr. DeAngelis asked, as far as the construction of the house and the steep slope, would there be safe guards that would be required and would be a condition of any variance relief which would address those steep slopes issues.

Mr. Murphy said that Mr. Ruschke mentions in his report the phasing as it relates to disturbance. There will be silt fencing; soil erosion measures; etc.

Mr. DeAngelis asked if there were any recommendations that he made in his review letter that you could not meet.

Mr. Murphy – No.

Mr. DeAngelis asked if Mr. Murphy could identify the house shown in picture identified as exhibit A29.

Mr. Murphy said it was the house next door.

Mr. De Angelis asked if between the last time and this time had the plan changed?

Mr. Murphy said it had. The architect had changed the ridge from what was on the original.

Mr. DeAngelis asked if he had changed all of the variance regarding the topography of this site.

Mr. Murphy said he had.

Mr. De Angelis clarified that the topography had not changed but the ridge height had. The question is then as the ridge height is in compliance they do not need a height variance.

Mr. Hyland said that testimony had been given that the ridge height from the front of the street, within a foot or so, you are consistent with the other houses. If you are looking at it from the lower street, up the hill, how many feet of the back of this house are you going to see relative to the house next door or other houses. It seems like there is the potential there to be seen. In terms of the lower neighbor looking up then they will only see 49 ft. above the 6 ft.

Mr. Murphy – the wall plus 35 ft. You will see elevation because you are on the low side. You will see more from the back elevation than in the front.

Mr. Hyland asked if there was the potential of plantings in the back of the property which would eliminate a site line from the lower neighbors to the house.

Mr. Murphy said they would be adding trees. The ordinance doesn't require any trees but we could add evergreens.

Mrs. Romano referred to the homes next to this house on lots 17 and 15, are those newer or relatively the same size. Is it going to fit into the neighborhood?

Mr. Murphy thought it the square footage might be a little bigger.

Mrs. Romano said she was more concerned with the height. To her, due the height of the house, she would look at it based on how many stories/square feet you have. The two neighbors next to it, their house is like 2700 sf and this will be almost 2 times the size of the neighboring house. Why do we need such a large house when the other houses in that area don't compare.

Mr. Murphy said he did not know the ridge height on the one house.

Mrs. Romano – she was concerned about the height especially on the steep slopes.

Discussion on heights of houses.

A question was raised by Mr. Borsinger as to the possible reduction so it conforms with the zoning.

Mr. Murphy said if they could they would. We wouldn't be here asking for a variance but the architects did not feel that the house would look right if reduced further.

Mr. Vivona asked for questions. There were none.

Mr. Vivona addressed the question of landscaping. The deck is open underneath, the wall beyond that. From Fairmount you can look up and see all the various homes on the slope. You will see 3.5-4 stories in the back and 1.5 to 2 stories in front. Looking at your aerial photographs showing the mass of the house – it looks similar in size to some of the houses.

There are not many larger ones. There is one on Fairmount that is rather substantial on the corner lot.

Mr. Gentile said it was close/similar to one on Dale.

Mr. Vivona asked if the topography of this house actually sits below the street so from the front is a bit lower (below 35 ft). He was advised that that was correct. He then asked if the entire back was exposed - one side high the other low.

Mr. Murphy the wall on the back is the patio area. There are like two walls which are terraced to break the height.

Mr. Shaw referred to Mr. Ruschke's report where it suggested a possible need for landscaping improvements as part of the development. He mentioned two trees that will be planted. How will that reflectively screen the height of the retaining walls. Does something needed to be planted to soften the appearance.

Mr. Murphy thought they had talked about providing something for winter to soften the walls. One of the other things there are two other trees --- there is a tree on the side that should be taken down.

Mr. Shaw asked if there is something that could or should be planted to soften the appearance of the retaining walls and what type of plantings would you propose to do that.

Mr. Murphy suggested some small foundation plantings. He also noted that manufactures make attractive residential walls.

Mr. Shaw asked if there should be some landscaping plan submitted to be reviewed/approved to address those issues.

Mr. DeAngelis said he had no objection in doing that or having additional trees added.

Mr. Shaw advised that they should submit a landscaping plan to soften the appearance of the retaining wall which would have the approval of the Township Engineer.

Mr. Vivona thought there should be more evergreens because the wall would really be visual in the wintertime. Even if you have a pretty wall it would be very visual and people really don't want to see it. So if there is a nice bank of evergreen, hemlocks or whatever, that will soften the appearance of the wall.

Mr. Vivona asked if there were any other questions/comment of Mr. Murphy. None heard.

Mr. Vivona said when they had done the site visit there was a lot of dead trees and an overgrowth of vegetation. He asked if they were planning on cleaning up the majority of the area. He asked if the lower portion of the lot, closer to Fairmount would be grass.

Mr. Vivona opened the meeting to the public for questions on Mr. Murphy's testimony.

Mr. Mills, Esq. representing Mr. & Mrs. Haislip, 5 Sunset Drive and house number 17 to the left as you stand on Sunset. Just an observation – Mr. Gentile has already testified and he is testifying again when he is not on the witness stand. He is talking about things that really run toward the negative criteria of the zoning application. We first have to determine whether or not the applicant has satisfied the positive criteria proving entitlement for the variance relief they are looking for.

Mr. Mills confirmed Mr. Murphy's qualifications/licensing/education. He asked if Mr. Murphy was not primarily an engineer and if he had done other work for Mr. Gentile. Mr. Murphy said that was correct and yes he had done other work for Mr. Gentile.

Mr. Mills asked Mr. Murphy about other places that Mr. Gentile has constructed houses where they have been situated among neighborhood of larger houses – is that an accurate statement.

Mr. Murphy said he has done some smaller and some larger.

Mr. Mills asked Mr. Murphy if he knew the final square footage of the proposed structure.

Mr. Murphy said he did not do the architectural and did not recall testimony as to the square footage.

Mr. Mills asked Mr. Murphy if he would agree or disagree with him if he asked - I stated to you that lot 17 was 3,144 sf.

Mr. Murphy said he had no reason to say whether that was good or bad.

Mr. Mills - and similarly, the other side lot contain 4,233 sf. You don't have the basis to say that I am wrong.

Mr. DeAngelis objected to the form of the question. It sounds like he is testifying.

Mr. Mills said but to the extent that he was testifying is certainly no greater then you have.

Mr. Mills referred to the height. Perhaps he was missing something because the application says that the height is 38.5 ft. yet you gave some testimony earlier which would leave the board to believe or conclude that the height of the proposed structure was within a foot of the height of the surrounding buildings.

Mr. Murphy stated that was from the front.

Mr. Mills felt he could conclude that the only reason that the rest of the height is within this 38.5 ft. is through the use of these retaining walls. Is that correct?

Mr. Murphy said not necessarily. The 38.5 ft. was through calculations. The retaining walls cover the actual foundation. He then explained the process to Mr. Mills and the Board.

Mr. Mills asked if the retaining wall elevation was 190.35 ft. (he thought) to ground elevation.

Mr. Murphy said the ground elevation - the height elevation takes the average of the lows and highs. The low was 182 and the high was 199.5 which average out to 194 which is 190.5. The building wall is not adding to the building height.

Mr. Mills said he was a bit confused. He thought he had heard Mr. Murphy say that the bottom of the wall was 190 and the height of the ridge was 231 ft. which to me would equate to a building height in the back of 41 ft.

Mr. Murphy said that was the wall that was constructed around the foundation so it did not create storage. There are two walls - The wall in back and one for the foundation.

Mr. Mills asked Mr. Murphy if he was telling this Board that all the elevations work out to be 38.5 ft. height taken from natural grade.

Mr. Murphy said the allowable height is the average of the low/high points. Add 35 ft. to that to get to the ridge.

Mr. Mill asked what was the height from the ground to the height of the building – from the ground elevation outside the retaining walls, the rear elevation – natural ground, from the base of the retaining wall to the height of the ridge.

Mr. Murphy said the height of the ground is 188-190. Mr. Mills thought it was 231.

Mr. Mills said that one of the concerns you articulated was if the height was softened it would be less desirable aesthetics with the roof line,

Mr. Mills asked Mr. Murphy, as an engineer, you know of no structural reasons why it could not be lowered.

Mr. Murphy said he was not into design and as a site engineer he could not comment.

Mr. Mills then asked as a Planner would you agree with me that if the building were a detriment that you could then lower the roof line and still achieve the same perceived slope of the roof.

Mr. Murphy said he would have to see the house proposed.

Mr. Mills asked if a fire company could access the back of this structure with a fire truck. Is it possible for a fire truck to get in the back?

Mr. Murphy said that would need to be answer by a Fire Official.

Mr. Mills thought that Mr. Murphy would agree with him that the smaller the disturbance the lesser the waivers and variances need.

Mr. Murphy said it could be somewhat less.

Mr. Mills asked, as a planner, was Mr. Murphy familiar with concept of the self-graded hardship.

Mr. Murphy said this is a steep slope and no matter what you do you will be disturbing it. A hardship variance is needed to build a house.

Mr. Mills noted the degree of relief that was being sought. It brings disturbance to a higher level by the virtual size of the foot print. Is that correct?

Mr. Murphy answered – somewhat.

Mr. Mills asked if the applicant was looking for a C1 or C2 variance.

Mr. DeAngelis answered C1.

Mr. Mills asked if in a C1 variance is it not incumbent upon the applicant to do whatever they can do to reduce the extent of the need of relief.

Mr. Murphy said that was true but this case of building a house that conforms with the ordinance, he could not see that this lot is the same as in other residential developments.

Mr. Mills asked if it would be inappropriate to ask the applicant to shrink the house down to a size more compatible with the surrounding homes.

Mr. DeAngelis objected to the question.

Mr. Mills noted that Mr. Murphy was an expert witness and could handle it.

Mr. Murphy said the way the zoning criteria was developed shows the area allowed and he felt they were within those zoning regulations.

Mr. Mills noted that some of the slopes are in excess of 25%.

Mr. Murphy said some were rated as 25%.

Mr. Mills pointed out that many towns, when faced with slopes of that magnitude, have a factor ordinance. He asked if Mr. Murphy knew what that was.

Mr. Murphy said that every town has their own ordinance pertaining to steep slopes.

Mr. Mills said that the ordinance in question requires that if a lot is a one acre zone and extra sediment or a sloped area the lot has to be decreased. Have you ever heard of that?

Mr. Murphy said he had not. He is guided by the town ordinance in this matter.

Mr. Vivona asked if there were any other questions of Mr. Murphy.

of 749 Fairmont Avenue asked if Mr. Murphy ever provided testimony to the Planning Board/Zoning Board solely in your capacity as a Professional Planner.

Mr. Murphy said he has testified as an Engineer but never as a planner.

Mr. Simon asked if a smaller house on this lot would have less steep slope disturbance.

Mr. Murphy said it was a hypothetical question so it would be hard for me to say.

Mr. Simon asked if he had done soil logs and perc tests.

Mr. Murphy said he had.

Mr. Simon asked if Mr. Murphy recalled when the architect testified that the height was 42 ft. from the rear grade to the top of the ridge.

Mr. Murphy said he was there but he didn't recall the numbers.

Mr. Simon asked if Mr. Murphy remembered the height from the rear grade to the top of the roof of the adjoining properties.

Mr. Murphy said he did not. He has the elevations from the road and there was no way to get to the back of the house

Mr. Simon asked, other than the letter you submitted regarding the perc tests (April 13, 2015) was there anything else with it other than the rendering.

Mr. Murphy – No

Mr. Simon to clarify, you did not supply any data to Mr. Ruschke's office in support of this April 13<sup>th</sup> letter.

Mr. Murphy said there were soil logs there as well. Hand written notes were kept as well.

Mr. Simon referred to a plan submitted by Mr. Murphy where he identifies the deficient lot depth.

Mr. Murphy said it was a minimum lot depth. The plan indicates an error – the minimum lot depth should be changed to read maximum lot depth. No variance is required for that.

Mr. Simon asked if Mr. Murphy had reviewed any of the properties in the surrounding neighborhood in terms of number of bedrooms, sq. footage, etc.

Mr. Murphy said he had not.

Mr. Simon asked if had reviewed any property record cards of properties in the neighborhood with regard to FAR to the size of the lot. Did you do any evaluation as to the proposed width of this house as compared to the width of other homes in the surrounding areas?

Mr. Murphy said that all the homes are similar in size. He noted some are mansions and some are two stories.

Mr. Simon asked if Mr. Murphy knew if the proposed width of the house was the lowest width in the neighborhood.

Mr. Murphy said he did not know that.

Mr. Simon questioned the style of the house in comparison to the homes in the area.

Mr. Murphy said all the homes in the surrounding area are different sizes.

Mr. Simon said testimony had been given by Mr. Gentile and his architect that the proposal is for a five bedroom and 8 bathroom home. In terms of your capacity in Professional Planning are you familiar with homes in the surrounding neighborhoods that have similar setups.

Mr. Murphy said he didn't know of any homes.

Mr. DeAngelis object to the line of questioning as it pertained to property records, etc.

Mr. Simon asked if Mr. Murphy was familiar with any property that has 8 bathrooms.

Mr. Murphy – No.

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Mr. Simon noted that you had mentioned in response to a question from Mr. Mills that a typical home that Mr. Gentile constructs; from your experience is a typical home on somewhat level lots?

Mr. Murphy said they were on all type of lots. The latest are on flatter lots.

Mr. Simon asked if Mr. Murphy had done any geotechnical analysis as to the amount of rock on this property or the downhill properties.

Mr. Murphy said he has done soil logs.

Mr. Simon noted that the Morris County Soil Survey used for storm water calculations as shown on your plans indicate seasonal high water table as 1.5 ft. to 4 ft. deep.

Mr. Murphy – yes. We did it within the allowable time.

Mr. Simon then referred to the drywells shown on the plan. They are at a minimum of 11 ft. deep.

Mr. Murphy said the drywells themselves are 6 ft. deep. The grading plan shows the drywells at 176, 178. Inverted drywell is 168, 167. The 178 is 10 ft. Mr. Murphy described the process used to determine the numbers/measurements and the times for water accumulation/processing.

Mr. Simon asked If you were looking at the property does the property slope down straight, slope into the pipe.

Mr. Murphy said the sloping was pretty much straight down. We don't do the topo's off site.

Mr. Simon said if you don't do the topo's off site then you don't know whether it veers to the right/left of continues to go straight.

Mr. Murphy said that was correct.

Mr. Simon thought that based on the storm water management rules and probably the DEP you can't use drywells with installation rules resulting in a significant risk for basement seepage or flow.

Mr. Murphy said that was correct.

Mr. Simon asked if the drywells become clogged could there be a significant surface runoff.

Mr. Murphy thought there should be no reason they should get clogged.

Mr. Simon asked if he was aware of any ground water seepage into the basements in neighboring properties on the downslope. Did you inquire to see if this problem existed?

Mr. Murphy said he was not aware of any problems. As to inquiring, he had not.

Mr. Simon asked if he had checked with the county as to any of the topography of any of the surrounding properties within 200 ft. to determine the water flow of the adjacent properties.

Mr. Murphy said he had not.

Mr. Simon said that the plans did not appear to identify locations of trees 6 inches or more in diameter in the wooded areas or immediately outside the wooded areas.

Mr. Murphy we general identify the isolated trees.

Mr. Simon asked if there were any type of conservation restrictions that are being proposed for this application.

Mr. Murphy – No.

Mr. Simon pointed out that the ordinance talks about on site storm water management and encourages the use of conservation restrictions.

Mr. Murphy said yes.

Mr. Simon said the applicant is not proposing any restriction that would limit the property owner in the future to install accessory structures.

Mr. Murphy if an accessory structure were proposed they would probably have to come back to this Board for a variance.

Mr. Simon asked if the deck was excluded from the impervious calculation.

Mr. Murphy said it had been and explained why.

Mr. Simon – in terms of the coverage requirement for this particular property your position is properly excluded from those calculations.

Mr. Murphy agreed.

Mr. Simon asked if the drywells were included in the calculations.

Mr. Murphy said they were below grade so they were not included. We never count the drywells as impervious coverage.

Mr. Simon we talked a little bit about cutting and filling and disturbing the root system. Did you do an analysis on trees on this property.

Mr. Murphy said they keep the grading away from the trees. The engineer had pointed out that a tree might be jeopardized so the problem was addressed.

Mr. Simon asked if Mr. Murphy knew anything about the history of this lot

Mr. Murphy said he had heard about the ownership of the lot.

Mr. Simon had nothing further.

Mr. Shaw said this application will be carried to July 23<sup>rd</sup> without further notice. An extension of time was requested.

Mr. Vivona called for adjournment. Motion was made by Mr. Hyland seconded by Mrs. Romano.

Meeting Adjourned – All in favor

Respectfully submitted:

A handwritten signature in cursive script, appearing to read "Mary Ann Fasano".

Mary Ann Fasano  
Transcribing Secretary